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# ***Public Utilities Commission of the State of California***

***Public Agenda 3084  
Thursday, March 21, 2002, 10 a.m.  
San Francisco, California***

**Commissioners**  
**Lorretta Lynch, President**  
**Richard A. Bilas**  
**Geoffrey Brown**  
**Henry M. Duque**  
**Carl Wood**

*For each agenda item, a summary of the proposed action is included; the Commission's decision may, however, differ from that proposed.*

Website: <http://www.cpuc.ca.gov>

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## **Scheduled Commission Meetings 505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> Auditorium (10 a.m.) <b><i>Open to the Public</i></b>
	Thursday, March 21, 2002 (San Francisco)
	Thursday, April 04, 2002 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

### ***Matters of Public Interest***

***For the convenience of the public and media representatives, items of widespread public interest will be taken up at the beginning of the meeting.***

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## PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
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Public Comment:

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Orders and Resolutions

- CA-1                      Res TL-18995**  
**234**                      Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.
- CA-2                      Res ALJ-176-3084**  
**235**                      Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.
- CA-3                      Res T-16640 - MTC Telemanagement Corporation, Lyrikn Communications, Inc.,**  
**247**                      **Ogden Communications, Inc., GTE Intelligent Network Services, The Associated Group, Inc., U.S. Advantage Long Distance, Inc., Mariners' Telecomm Group, Inc., Info Tel, Inc., Preferred Telecom, Inc., Total World Telecom, Inc., ABC Telecom, Silicon Valley Fiber, L.L.C., Personal Cellular Services, Inc., Long Distance Direct, Inc., Satlink 3000, Inc., Gillette Global Network, Inc., Vendormatic, Inc., Five Star Telecom, Inc.**  
This resolution revokes certificates of public convenience and necessity of 18 competitive carriers for failure to comply with Commission decisions.  
*Pub. Util. Code § 311 – This item was mailed for Public Comment*

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- CA-4**  
**233**      **A97-12-020 - Pacific Gas and Electric Company (PG&E).**  
For authority, among other things, to increase rates and charges for electric and gas service effective on January 1, 1999. I97-11-026, A94-12-005, I95-02-015 - Related matters. On January 17, 2002, PG&E filed a motion requesting that the Commission issue an interim decision to ensure that if, at a later date, the Commission approves an attrition rate adjustment (ARA) for 2002, such adjustment may be made effective as of the date of the requested interim decision. PG&E's motion also requests that the Commission specify the process for addressing the substantive question of how much, if any, attrition relief PG&E should receive for 2002. This decision grants PG&E's motion. PG&E's rates and authorized revenue requirements are not directly affected by this decision. They would only be affected if, at a later date, the Commission approves an ARA for 2002.  
(Comr Wood - ALJ Wetzell)  
*Pub. Util. Code § 311 – This item was mailed for Public Comment*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116339](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116339)
- CA-5**  
**271**      **A97-12-020 - Pacific Gas and Electric Company (PG&E).**  
For authority, among other things, to increase rates and charges for electric and gas service effective on January 1, 1999. I97-11-026, A94-12-005, I95-02-015 - Related matters. This decision grants The Utility Reform Network an award of \$14,258.20 in compensation for contributions to D01-10-031.  
(Comr Wood - ALJ Walker)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115574](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115574)
- CA-6**  
**273**      **A00-05-026 - Southern California Edison Company**  
For authority to market value and retain the generation-related portions of SSID. This decision grants The Utility Reform Network an award of \$11,482.96 in compensation for its contribution to D01-11-012. This proceeding is closed.  
(Comr Brown, Comr Duque)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115674](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115674)
- CA-7**  
**274**      **A00-05-024 - Southern California Edison Company**  
For approval of agreements to sell its interests in Four Corners Generating Station and Palo Verde Nuclear Generating Station. This decision grants The Utility Reform Network an award of \$18,370.31 in compensation for contributions to D01-10-050. This proceeding is closed.  
(Comr Duque - ALJ Walker)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115575](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115575)
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- CA-8**  
**279**      **A01-12-023 - Norcast Communications Corporation (Applicant).**  
This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange telecommunications services. This proceeding is closed.  
(Comr Wood - ALJ O'Donnell)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=114753](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=114753)
- CA-9**  
**292**      **A00-10-045 - San Diego Gas & Electric Company.**  
For an order implementing Assembly Bill 265. A01-01-044 - Related matters. This decision grants Aglet Consumer Alliance an award of \$15,555.00 in compensation for contribution to D01-09-059. These proceedings are closed.  
(Comr Wood - ALJ Walker)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116335](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116335)
- CA-10**  
**281**      **C98-04-004 - The Utility Consumers' Action Network (UCAN) vs. Pacific Bell.**  
**C98-06-003, C98-06-027, C98-06-049, and I90-02-047 - related matters.**  
This decision grants UCAN intervenor compensation award of \$132,493.40 for substantial contribution to D01-09-058.  
(Comr Wood - ALJ Bushey)
- CA-11**  
**293**      **Res T-16646 - AT&T Broadband Phone of California, LLC dba MediaOne**  
**Telecommunications of California, Inc. (Company).**  
This resolution grants the Company's request to revoke its Certificate of Public Convenience and Necessity.  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117505](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117505)
- CA-12**  
**302**      **A01-06-004 - Santa Clara Valley Transportation Authority (VTA).**  
This decision grants the request of VTA to construct at-grade crossings of Ohlone Drive, Gilchrist Drive, Giannotta Way/Secondary Mall Entrance, Primary Mall Entrance and Wilbur Avenue by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, Santa Clara County. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=113100](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=113100)
- CA-13**  
**303**      **A01-06-005 - Santa Clara Valley Transportation Authority (VTA).**  
This decision grants the request of VTA to construct at-grade crossings of Greengate Drive, Sierra Road, Berryessa Drive, Penitencia Creek Road, Mabury Road, Rainfield Drive/Gimelly Way, McKee Road, Gay Avenue, Madden Avenue and Florence Avenue by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, Santa Clara County. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=113109](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=113109)
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- CA-14**  
**304**      **A01-06-006 - Santa Clara Valley Transportation Authority (VTA).**  
This decision grants the request of VTA to construct at-grade crossings at Alum Rock Avenue by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, Santa Clara County. This proceeding is closed.  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=113085](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=113085)
- CA-15**  
**306**      **A01-09-008 - City of Montclair (City).**  
This decision grants the request of the City to construct Monte Vista Avenue Overpass at separated grades over the tracks of Union Pacific Railroad Company's Los Angeles to Yuma and Los Angeles to Riverside Junction main lines and to close and abandon the existing at-grade crossings of Monte Vista Avenue to public traffic in the City of Montclair, San Bernardino County. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117041](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117041)
- CA-16**  
**307**      **A01-09-010 - State of California, Department of Transportation (Caltrans).**  
This decision grants the request of Caltrans to replace the existing crossing at separated grades of Tehachapi Creek Bridge and Overhead (existing State Route (SR) 202) with a new bridge and overhead crossing at separated grades on the proposed realignment of SR 202 over Union Pacific Railroad Company's El Paso Main Line tracks in the City of Tehachapi, Kern County. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117169](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117169)
- CA-17**  
**308**      **R00-05-001 - Order Instituting Rulemaking into implementation of Senate Bill 669, regarding The Deaf and Disabled Telecommunications Program.**  
This decision grants the California Association of the Deaf an award of \$28,032.52 in compensation for contributions to D01-07-023, as modified by D02-01-018. This proceeding is closed.  
(Comr Duque - ALJ Walker)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116438](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116438)
- CA-18**  
**309**      **A00-11-038 - Southern California Edison Company**  
For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. This decision awards The Utility Reform Network \$574,584.45 in compensation for its contribution to D01-01-018, D01-03-029, D01-03-081, D01-03-082, D01-04-005, and D01-05-064.  
(Comr Lynch - ALJ DeBerry)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115124](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115124)
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- CA-19 310      A02-01-017 - Allied Riser of California, Inc.**  
For authority to transfer control to Cogent Communications Group, Inc. (Cogent). Because of changed circumstances, Cogent asks that this application be withdrawn. Withdrawal is unopposed. The application is dismissed. This proceeding is closed.  
(Comr Brown - ALJ Walker)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115217](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115217)
- CA-20 311      A01-12-017 - County of San Joaquin (County).**  
This decision authorizes the County to construct West Lane at separated grades over the main line tracks of the Union Pacific Railroad Company in an unincorporated portion of San Joaquin County. This proceeding is closed.  
(Exam Clark)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117241](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117241)
- CA-21 301      (ECP) C01-10-039 - Salvador Ortiz-Lopez (Complainant) vs. Apple Valley Ranchos Water Company (Defendant).**  
Complainant requests that Defendant be ordered to provide general metered service to his proposed commercial development without advancing the cost of the required infrastructure to meet Apple Valley Fire Protection District's fire protection requirements. The request is denied. This proceeding is closed.  
(Comr Duque - ALJ Patrick)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115080](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115080)
- CA-22 315      C01-10-050 - Arrendondo, Maria L. vs. Pay-Less Cellular, Inc.**  
This decision grants the complaint for reparation of \$325.98. Defendant failed to answer complaint or appear at the hearing. This proceeding is closed.  
(Comr Wood - ALJ Barnett)
- CA-23 328      Res T-16642 - Pacific Bell Telephone Company (PacBell).**  
This resolution approves a Resale Agreement between PacBell and New Access Communications, LLC. , in accordance with the provisions of General Order 96-A and Resolution ALJ-181.  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117502](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117502)
- CA-24 329      Res T-16643 - Pacific Bell Telephone Company (PacBell).**  
This resolution approves an Interconnection Agreement between PacBell and Ciera Network Systems, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181.  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117503](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117503)
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- CA-25**  
**330**      **Res T-16648 - Verizon California, Inc. (Verizon).**  
This resolution approves an Interconnection Agreement between Verizon and Vartec Telecom, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181.  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117506](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117506)
- CA-26**  
**331**      **Res O-0041 - Mobil Pacific Pipeline Company (MPPL).**  
This resolution approves MPPL's proposal to increase its tariffs for transporting petroleum products from ExxonMobil's refinery to GATX terminals.
- CA-27**  
**316**      **C00-09-025 - Daniels Cablevision, Inc. (Daniels) and the California Cable Television Association (Complainants) vs. San Diego Gas & Electric Company (SDG&E).**  
Complainants request the Commission to prohibit SDG&E from imposing additional charges for access to SDG&E poles and rights-of-way (ROW) beyond the pole attachment fee negotiated between Daniels and SDG&E in 1986. The decision finds that SDG&E may not impose upon Daniels a fee for use of transmission ROW as long as the 1986 pole attachment agreement remains in effect. If the agreement is terminated, SDG&E may charge a fee for use of its transmission ROW on private land based on actual costs. SDG&E may calculate a transmission ROW charge as an overhead component of its transmission pole attachment fee according to the formula proposed by complainants.  
(Comr Wood - ALJ Duda)  
*Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
- CA-28**  
**272**      **Res L-296**  
This resolution authorizes disclosure of the investigative report by Consumer Services Division (Utilities Safety Branch) concerning Incident No. EIR20001107-01.  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116648](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116648)
- CA-29**  
**340**      **A02-01-037 - Williams Communications, LLC (Williams) and Roseville Telephone Company dba SureWest Broadband (Roseville).**  
This decision grants the joint application of Williams and Roseville for approval for Roseville to acquire the non-exclusive right to occupy 20 miles of Williams' fiber optic conduits. This proceeding is closed.  
(Comr Brown - ALJ O'Donnell)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117579](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117579)
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**CA-30  
341      A02-02-017 - McLeodUSA Telecommunications Services, Inc. (McLeod) and Forstmann Little & Co. Equity Partnership-V, L. P. (FL-V); Forstmann Little & Co. Equity Partnership-VII, L. P. (FL-VII); Forstmann Little & Co. Subordinated Debt & Equity Management Buyout Partnership-VI, L. P. (FLDE-VI); Forstmann Little & Co. Subordinated Debt & Equity Management Buyout Partnership-VII, L. P. (FLDE-VII); Forstmann Little & Co. Subordinated Debt & Equity Management Buyout Partnership-VIII, L. P. (FLDE-VIII).**

This decision grants the joint application of McLeod and FL-V, FL-VII, FLDE-VI, FLDE-VII, and FLDE-VIII for approval of the indirect transfer of control of McLeod to FL-V, FL-VII, FLDE-VI, FLDE-VII, and FLDE-VIII. This proceeding is closed.

(Comr Wood - ALJ O'Donnell)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117092](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117092)

**CA-31  
342      R01-08-028 - Order Instituting Rulemaking to examine the Commission's future energy efficiency policies, administration and programs.**

This interim decision delays closure of the Pacific Gas and Electric Company Food Service Technology Center, which promotes energy efficiency in the food service industry, pending the Commission's review of local energy efficiency program proposals for 2002, and provides for recovery of related expenses.

(Comr Lynch - ALJ Thomas)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117748](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117748)

**CA-32  
347      A01-07-031 - Pacific Gas and Electric Company (PG&E).**

This order approves the final form of two easements that were the original subject matter of this application by PG&E, and that the Commission approved in D01-08-069. The first easement is for an underground-to-overhead electric "transition structure," and the second is for a gas pipeline and gas valve lot. Both easements are needed for the Delta Energy Center, a new 880 MW electric generation plant in Pittsburg, California. Although D01-08-069 approved the form of the easements submitted with the original application, that decision also required PG&E to seek Commission approval of any revisions to the easements that might be negotiated after the issuance of D01-08-069. This decision concludes that the revisions PG&E has negotiated, especially in the insurance and indemnity provisions, are favorable to PG&E and its ratepayers and should be approved.

(Comr Lynch - ALJ McKenzie)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117543](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117543)

**CA-33  
256      Res W-4326 - California Water Service Company (CWSC), Palos Verdes District.**

This resolution authorizes CWSC an offset rate increase of \$1,183,400 or 5.8% in additional revenue due to purchased power costs.

(Agenda 3083, Item CA-11 3/6/2002)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115991](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115991)



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**CA-34**

**A01-11-033 - Southern California Edison Company (Edison).**

**352**

This decision grants Edison's application for an order approving its proposed settlement agreement with NP Cogen, Inc. and provides for the recovery of payments made under the settlement agreement. This proceeding is closed.

(Comr Brown - ALJ DeBerry)

## Regular Agenda

### Utility and Transportation Orders

#### Orders Held Over

#### **H-1            A00-11-038 - Southern California Edison Company (Edison).**

**128**            For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs A00-11-056, A00-10-028 - Related matters. This decision establishes cost-of-service revenue requirements for the utility retained generation (URG) of PG&E, Edison and SDG&E. URG reflects the utility-incurred costs associated with utility-owned generation assets and purchased power. This decision adopts a January 2002 to December 2002 URG revenue requirement of \$2.875 billion for PG&E, \$3.794 billion for Edison, and \$465.860 million for SDG&E. This decision authorizes recovery of actual and reasonably incurred costs and adopts balancing accounts for PG&E, Edison, and SDG&E to ensure that these costs will be recovered.

(Comr Lynch - ALJ DeUllola)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

*This matter may be considered during the Ratesetting Deliberative Meeting*

(Agenda 3081, Item 2 2/7/2002; Agenda 3083, Item H-1 3/6/2002)

#### **H-1a            ALTERNATE TO ITEM 128**

**129**            These alternate pages reflect a few minor changes to the Administrative Law Judge's proposed decision. The only substantive change is that the alternate does not reduce Southern California Edison Company's return on equity as is proposed in the Administrative Law Judge's decision. (Comr Lynch)

*This matter may be considered during the Ratesetting Deliberative Meeting*

(Agenda 3081, Item 2a 2/7/2002; Agenda 3083, Item H-1a 3/6/2002)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=114505](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=114505)

#### **H-1b            ALTERNATE TO ITEM 128**

**224**            This alternate proposed decision establishes revenue requirements for the utility retained generation (URG) of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company. This decision adopts Edison's authorized return on equity, retains the Incremental Cost Incentive Plan for the San Onofre Nuclear Generating Station, clarifies the discussion regarding the timing difference between revenues received and taxes paid, and eliminates the Native Load and the Revenue Shortfall Balancing Accounts. (Comr Bilas)

*This matter may be considered during the Ratesetting Deliberative Meeting*

(Agenda 3082, Item H-4b 2/21/2002; Agenda 3083, Item H-1b 3/6/2002)

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- H-2**                      **A01-04-023 - Verizon California Inc. (Verizon)**  
**265**                      This decision dismisses Verizon's application for exemption from §§ 816-830 without prejudice because §§ 816-830 applications are a component of the Commission's New Regulatory Framework monitoring program which is currently under review in R01-09-001/I01-09-002. This proceeding is closed.  
                                  (Comr Brown - ALJ Grau)  
                                  *Pub. Util. Code § 311 – This item was mailed for Public Comment*  
                                  (Agenda 3083, Item 2 3/6/2002)  
                                  [http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115536](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115536)
- H-3**                      **A99-08-021 - Pacific Fiber Link, L.L.C.**  
**169**                      For modification of its certificate of public convenience and necessity to review proponent's environmental assessment for compliance with the California Environmental Quality Act. In this decision, the Commission is asked to decide whether penalties should apply to telecommunications carrier that began trenching and installing a fiber optic project in 1998 before it received the formal approval of this Commission under the California Environmental Quality Act (CEQA), Pub. Resources code Sections 21000-21176. The utility in July 1999 was ordered by this Commission to stop work until it obtained formal CEQA approval six months later. Because the Commission in 1998 had no procedure in place for conducting a CEQA review for the type of utility involved, and because the utility was led to believe by Commission staff that an administrative CEQA approval was forthcoming, and because the utility itself retained environmental experts to monitor and direct its work, we conclude that, in the facts and circumstances of this case, no further sanctions are warranted. The staff appeal of the Presiding Officer's decision is denied. This proceeding is closed.  
                                  (Comr Duque - ALJ Walker)  
                                  *Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
- H-4**                      **C98-06-016 - The Utility Consumers' Action Network (UCAN) vs. MCI Metro Access**  
**170**                      **Transmission Services, Inc. (MCI Metro).**  
                                  This decision finds that MCI Metro has resolved all billing errors included in this proceeding, and that these errors support a fine of \$250,000 as requested by UCAN. MCI Metro's forthright and cooperative conduct in resolving these errors, however, mitigates the need for the fine. This proceeding is closed.  
                                  (Comr Wood - ALJ Bushey)  
                                  (Agenda 3082, Item H-16 2/21/2002)  
                                  [http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=96068](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=96068)
- H-4a**                      **ALTERNATE TO ITEM 170**  
**171**                      Wood Alternate This alternate order finds that MCI Metro, in compliance with D99-04-053, has resolved billing errors, and that these errors support a fine. This proceeding is closed.  
                                  (Comr Wood)  
                                  (Agenda 3082, Item H-16a 2/21/2002)
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**H-5  
356      I00-05-020 - Order Instituting Investigation into the status, rates, rules, operations, service, facilities, equipment, contracts and practices of the Union Pacific Railroad Company in the supply, distribution, and sale of water by the Keene Water System to the communities of Keene and Woodford in Kern County.**

This decision addresses the issue of whether the Keene Water System operated by Union Pacific Railroad Company has been dedicated to public use for the benefit of the communities of Keene and Woodford in Kern County. The decision finds that dedication has occurred and that the Keene Water System is a public utility system subject to Commission jurisdiction pursuant to Public Utilities Code Section 2701. This proceeding is closed.

(Comr Wood - ALJ DeUlloa)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

**H-5a  
358      ALTERNATE TO ITEM 356**

This alternate addresses the issue of whether the Keene Water System operated by Union Pacific Railroad Company has been dedicated to public use for the benefit of the communities of Keene and Woodford in Kern County. The decision finds that dedication has occurred and that the Keene Water System is a public utility system subject to Commission jurisdiction pursuant to Public Utilities Code Section 2701. The determination of rates shall be addressed in a subsequent decision in this proceeding.

(Comr Wood)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117121](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117121)

**H-6  
102      I01-12-010 - Order Instituting Investigation into the actions of Pacific Gas and Electric Company (PG&E), and its officers and employees for non-compliance with a Commission Decision.**

This decision addresses PG&E's uncontested proposal for resolving the issues arising from D01-10-059 and the Commission's order instituting the investigation and related Order to Show Cause. PG&E shall pay a penalty and shall tender a Notice of Intent for a test year 2003 general rate case as set forth in the decision. This proceeding is closed.

(Comr Brown - ALJ Wetzell)

(Agenda 3080, Item H-6 1/23/2002; Agenda 3083, Item H-5 3/6/2002)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=114210](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=114210)

**H-7  
191      R02-01-011 - Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and D01-09-060.**

This decision suspends direct access as of July 1, 2001, rather than the September 20, 2001, suspension date of D01-09-060. It also implements the rules for those direct access contracts entered prior to July 1, holding that those contracts cannot be extended or assigned. This proceeding is closed.

(Comr Wood - ALJ Barnett)

(Agenda 3081, Item 4 2/7/2002; Agenda 3083, Item H-6 3/6/2002)

**H-7a           ALTERNATE TO ITEM 191**

**226**           This alternate maintains a direct access suspension date of September 20, 2001. The Commission will consider exit fees in a separate proceeding (A00-11-038, et. al) to recover Department of Water Resources costs from direct access customers. This decision also implements and clarifies provisions of the direct access suspension.

(ALJ Brown)

(Agenda 3082, Item H-12a 2/21/2002; Agenda 3083, Item H-6a 3/6/2002)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=115234](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=115234)

**Orders**

**1           R01-05-047 - Order instituting rulemaking on the Commission's own motion to**  
**236       determine whether baseline allowances for residential usage of gas and electricity**  
**should be revised.**

This decision increases baseline allowances for certain residential customers and begins the process of improving the medical baseline program.

(ALJ Allen, ALJ Brown)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116431](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116431)

**2           A00-01-023 - Pacific Bell Telephone Company (Pacific).**

**237**           Pacific seeks formal authorization to transfer assets and lease space to SBC Advanced Solutions, Inc. (ASI). The transfer enables ASI to provide broadband and other advanced services that previously were provided by Pacific. This proceeding has been stayed three times, at Pacific's request, while Pacific considered whether to proceed with the transfer. This decision concludes that the record developed in three days of hearings in December 2000 has become stale, and that a Circuit Court decision in January 2001 has changed the ground rules under which ASI operates. Accordingly, this decision dismisses the application and directs Pacific to refile its application to take account of the changed circumstances that now prevail.

(Comr Wood - ALJ Walker)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116199](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116199)

**3           R01-08-028 - Order Instituting Rulemaking to examine the Commission's future**  
**248       energy efficiency policies, administration and programs.**

In this interim decision, we award \$170.5 million in funding for statewide energy efficiency programs for 2002.

(Comr Lynch - ALJ Thomas)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116463](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116463)

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**3a                   ALTERNATE TO ITEM 248**

**337**               This alternate draft decision selects 16 statewide energy efficiency programs for 2002. The decision also, where appropriate, makes explicit benchmarks for judging whether the IOUs are adequately serving hard-to-reach customers. It clarifies how IOUs and third parties can establish eligibility for progress payments. Finally, this decision gives parties the opportunity to earn a profit for delivering energy efficiency programs, should they meet review and verification requirements in their upcoming GRC's and BACPS.

(Comr Wood)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=117715](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=117715)

**4                   R99-10-025 - Order Instituting Rulemaking into Distributed Generation.**

**238**               This decision exempts generators eligible for net energy metering under Pub. Util. Code § 2827 from paying for costs associated with interconnection studies, distribution system modifications, or application review fees.

(Comr Lynch - ALJ Cooke)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116450](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116450)

**5                   C93-06-015 - North American Refractories Company (NARCO) vs. Pacific Gas and Electric Company (PG&E).**

**249**

This decision determines that NARCO should not be excused from liability for use-or-pay penalties imposed for its failure to meet minimum annual gas transportation obligations specified in a natural gas service agreement with PG&E for contract years 1991-1992 and 1992-1993. This decision finds that NARCO's agent had ostensible, if not actual, authority to sign the contract on behalf of NARCO; that PG&E acted in good faith in entering the agreement; and that NARCO should not be excused from the requirements of the agreement under a theory of mistake. This decision rejects NARCO's argument that it would be unconscionable to enforce the use-or-pay terms of the firm transportation agreement. The relief requested is denied and the complaint is dismissed. This proceeding is closed.

(Comr Duque - ALJ Wetzell)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=116541](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=116541)

**6                   A00-11-038 - Southern California Edison Company**

**348**

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. This decision addresses issues relating to Independent System Operator costs issues contained in the Assigned Commissioner's Ruling issued on March 4, 2002.

(Comr Lynch - ALJ DeUlloa)

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**7**  
**349**

**A00-12-017 - Pacific Gas and Electric Company (PG&E) and AT&T Wireless Services of California, Inc.**

This decision approves, subject to certain conditions, a Master License/Lease Agreement between PG&E and AT&T Wireless for installation of wireless communication equipment on PG&E's transmission towers and other property. PG&E's proposed ratemaking for revenues generated by the Master Agreement is denied. Revenues generated by the license or lease of the Commission jurisdictional property should be credited to ratepayers. This proceeding is closed.

(Comr Lynch - ALJ Duda)

*Pub. Util. Code § 311 – This item was mailed for Public Comment*

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal Items

#### Orders

- EX-1**                      **Conference with Legal Counsel – Applications for Rehearing.**  
**322**                      Compilation of applications for rehearing recently filed with the Commission.  
                               *Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*  
                               *Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
- EX-2**                      **Conference with Legal Counsel – Threatened Litigation**  
**323**                      Significant exposure to litigation.  
                               *Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session*  
                               *Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
- EX-3**                      **Conference with Legal Counsel – Initiation of Litigation**  
**324**                      Consideration of possible Commission initiation of, or intervention in, litigation.  
                               *Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session*
- EX-4**                      **Personnel Matters**  
**325**                      Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee.  
                               *Gov. Code § 11126(a), allows this item to be considered in Closed Session*  
                               *Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*



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- EX-5  
326**      **Conference with Legal Counsel – Application for Rehearing. - A00-11-038, A00-11-056, A00-10-028 -**  
Disposition of applications for rehearing of D02-02-052 filed by Pacific Gas and Electric Company, Southern California Edison Company, The Utility Reform Network and Aglet Consumer Alliance, and the City of San Diego. In D02-02-052, the Commission: (1) allocated the Department of Water Resource's (DWR) revenue requirement among the customers of the three investor-owned utilities; (2) established a specific charge for customers in each utility service territory to be paid to DWR; and (3) established procedures to implement the collection process.(Atty Yip-Kikugawa)  
*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*  
*Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
- EX-6  
327**      **Conference with Legal Counsel – Application for Rehearing. - A00-11-038, A00-11-056, A00-10-028**  
Disposition of applications for rehearing of D02-02-051 filed by Pacific Gas and Electric Company. D02-02-051 adopted a rate agreement between the Commission and the California Department of Water Resources.(Atty Lippi)  
*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*  
*Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
- EX-7  
332**      **Conference with Legal Counsel – Application for Rehearing. - A99-09-029 -**  
Disposition of applications for rehearing of D01-05-059 filed by (1) Joseph A. McCarthy and Muriel M. Harris, Trustees of the RIM Trust and the MGM Trust; (2) Prologis Limited Partnership-I and Prologis Trust; and (3) Pacific Gas & Electric Company. In D01-05-059, the Commission granted a Certificate of Public Convenience and Necessity, certified the Environmental Impact Report, and ordered PG&E to submit updated cost information for construction of the Northeast San Jose Transmission Reinforcement Project.(Atty Hook)  
*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*  
*Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
- EX-8  
333**      **Conference with Legal Counsel – Application for Rehearing. - R01-08-028**  
Disposition of applications for rehearing by Southern California Edison Company, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Gas Company of D01-11-066, regarding the adoption of energy efficiency policy rules.(Atty Foley)  
*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session*  
*Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
- EX-9  
336**      **Conference with Legal Counsel - Initiation of Enforcement Proceeding**  
Deliberation on institution of proceeding or disciplinary actions against person or entities subject to Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced and disclosure could also jeopardize the ability to effect personal service on the Respondent.)  
*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session*  
*Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*
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**Federal Items**

***Items***

**FEX-1                      Conference with Legal Counsel – Initiation of Litigation.**

**312**                      (Gov. Code § 11126(e)(2)(C)(i).)

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session*

*Pub Util Code § 1701.2(c) allows this item to be considered in Closed Session*